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LETTER DATED 4 JANUARY 2000 FROM THE CHARGE D'AFFAIRES A.I. OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have been instructed by my Government to transmit, enclosed herewith, a copy of the letter dated 24 December 1999 from Mr. Assad Kotaite, President of the Council of the International Civil Aviation Organization (ICAO), to Mr. Dejan Drobnjaković, Federal Minister of Transport of the Federal Republic of Yugoslavia (see annex II), and a copy of the letter dated 29 December 1999 from Minister Drobnjaković in response to the said letter (see annex I), relative to the position of the Federal Republic of Yugoslavia on the determination by ICAO to temporarily suspend a part of the "Air Navigation Plan - European Region" (document 7754) and give the United Nations Interim Administration Mission in Kosovo (UNMIK) the authority to promulgate aeronautical information for Kosovo and Metohija, the autonomous province of the Yugoslav constituent Republic of Serbia, in contravention of the provision of Security Council resolution 1244 (1999) relevant to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia.

In advising you of the unlawful determination of ICAO, I take the opportunity to lodge a strong protest by the Government of the Federal Republic of Yugoslavia at the violation of Security Council resolution 1244 (1999), its provision on the sovereignty and territorial integrity of the Federal Republic of Yugoslavia.

I should be grateful if you would have the present letter and its annexes circulated as a document of the Security Council.

(Signed) Vladislav JOVANOVIĆ
Chargé d'affaires a.i.

Annex I

Letter dated 29 December 1999 from the Federal Minister of Transport of the Federal Republic of Yugoslavia addressed to the President of the Council of the International Civil Aviation Organization

I have the honour to refer to your letter of 24 December 1999 (see annex II) and to express great surprise and concern on the occasion of the decision of the International Civil Aviation Organization (ICAO) that the "expedient and pragmatic" solution - but, according to our profound conviction, not a legal one - would be to temporarily suspend a part of the Air Navigation Plan - European Region (document 7754) and give the United Nations Interim Administration Mission in Kosovo (UNMIK) the authority to promulgate aeronautical information.

I am convinced that you share our opinion that UNMIK, as an unrecognized organization in the sphere of civil aviation, both legally and operationally, cannot perform the tasks that are within the jurisdiction of the Federal Republic of Yugoslavia, nor play the role of aeronautical authority.

We also believe that ICAO is not in a position, only by changing the technical solution for the operation of civil air traffic, to transfer the jobs that are under the direct jurisdiction of a sovereign State - which is what our country is - without its consent, to the jurisdiction of another subject.

You surely recall that ICAO was resolving the problem of the CRAYE point in the same manner, which resulted in a total halt of traffic in that part of the region. A great deal of work on both our parts was necessary to achieve the solution for the re-establishment of air traffic on 27 January 2000. We were certain that we would never be placed in the same situation again.

The international community surely knows that UNMIK cannot guarantee safe flight operations and the present results of flight operations in the airspace over the territory of Kosovo and Metohija are also well known to it. Having that in mind, we are even more surprised by ICAO's decision.

The Federal Government of the Federal Republic of Yugoslavia and the aeronautical authorities cannot agree with your solution, nor take any responsibility for the safety of air traffic in the region now covered by UMMIK.

Rightfully, we are going to inform the air operators, primarily in the interest of safe flight operations in the region concerned, of our attitude and warn the United Nations that ICAO has taken measures contrary to Security Council resolution 1244 (1999).

I have to inform you that the reasons for which such an urgent ICAO decision was made are unknown to us.

We take this opportunity to reaffirm our attitude that the most expedient and pragmatic but also the only legal solution for the operation of air traffic

in Kosovo and Metohija is the establishment of the full authority of the civil aeronautical authorities of the Federal Republic of Yugoslavia in this area.

I hope that ICAO, under your leadership, will reconsider once again the justification for the suspension of part of document 7754.

(Signed) Dejan DROBNJAKOVIĆ

Annex II

Letter dated 24 December 1999 from the President of the Council of the International Civil Aviation Organization addressed to the Federal Minister of Transport of the Federal Republic of Yugoslavia

I have the honour to refer to my letter dated 9 December 1999, in which I was seeking your concurrence to delegate the responsibility for the dissemination of aeronautical information for Kosovo, Federal Republic of Yugoslavia, to the United Nations Interim Administration in Kosovo (UNMIK). This was done in full recognition of the Air Navigation Plan - European Region (document 7754), wherein Beograd is listed as the official notam office for the Beograd flight information region (FIR). Having received no response from you, I sent a follow-up message on 14 December 1999, expressing the urgency of the situation and asking you kindly to reply not later than 17 December 1999.

On 23 December 1999, I received, through the Ambassador of the Federal Republic of Yugoslavia in Ottawa, a response from you wherein you explained that Kosovo is an integral part of the Beograd FIR and that the Federal Republic of Yugoslavia's civil aviation authorities and their publications are responsible for the safety of air traffic in the area. You also did not agree to the proposal that responsibility for the issuance of aeronautical information relating to Kosovo and the Pristina airport should be delegated to the United Nations Interim Administration Mission in Kosovo (UNMIK). Given the urgency of the situation, I have taken action to ensure that critical aeronautical information will be made available to the international civil aviation community which must use the Pristina airport. These aircraft operations are in accordance with UNMIK requirements, which are in line with Security Council resolution 1244 (1999).

Based on the above, it has been determined that the most expedient and pragmatic solution would be to temporarily suspend a part of the Air Navigation Plan - European Region (document 7754) and give UNMIK the authority to promulgate aeronautical information for Kosovo, on a temporary basis, limited to the duration of UNMIK's current mandate under Security Council resolution 1244 (1999). I have notified the Secretary-General of the United Nations and UNMIK of this action. Furthermore, I can assure you that this matter will continue to be under my immediate and personal attention and that I will keep you informed of further developments.

(Signed) Assad KOTAITE